

COPY

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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

- - - - - X

JUDITH H. WEISS,

Plaintiff,

against,

FRANCES M. CREEM and BETTY M. OLSON,

Defendants.

- - - - - X

DATED: January 21, 2008
Poughkeepsie, New York
2:20 p.m. - 3:00 p.m.

Patrick M. DeGiorgio, Reporter

DEPOSITION

OF

KRISTOFER BARNHART

(A Non-Party Witness)

MARY T. BABIARZ COURT REPORTING SERVICE, INC.
(845) 471-2511

BARNHART

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A. No.

Q. I notice you brought a copy of a police accident report. Have you had a chance to take a look at that before coming here today?

A. Yes.

Q. Is that a two-page document?

A. Yes.

Q. For Identification purposes today that's been marked as Defendant's Exhibit B. I'll have you take a look at both of those documents in a second, but before I have you do that, do you have an independent recollection of an accident which occurred on Route 32 north on September 18th, 2006 in the Town of Rosendale?

A. Yes.

Q. Can you tell me, sir, what your independent recollection is about that accident?

A. There was construction in the area, I don't remember what for. I got called for an accident, a woman came down and struck a vehicle that was stopped due to the construction zone. That was about it.

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Q. From looking at the report, can you tell what the colors of those cars were?

A. No. It's not on here, no.

Q. Does that refresh your recollection as to what the colors of the car were?

A. No. It was too long ago.

Q. When you arrived at the scene, can you tell me the relevant positions of the cars?

A. There were -- they were in the northbound lane then, right in the lane itself.

Q. The northbound lane of Route 32 in the area of the accident, is that one lane, two lanes or something else?

A. One lane.

Q. How about in the southbound direction of that location, one lane, two lanes or something else?

A. Two lanes.

Q. Do you recall the weather that day?

A. Just clear. There was nothing, no snow or anything like that, no rain.

Q. Do you know if the weather was a factor in the accident at all?

A. No, it was not.

BARNHART

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in one vehicle and one person in the other?

A. Yes.

Q. Do you recall which had which?

A. I'd have to look at the report. Frances Creem in one vehicle and Betty Olson and Judith was Weiss in the second vehicle.

Q. Who was driving in the Olson/Weiss vehicle?

A. Olson.

Q. Can you describe Miss Olson?

A. No. It was too long ago.

Q. Can you describe Miss Weiss?

A. Too long ago.

Q. How about Miss Creem, can you describe her?

A. Too long ago.

Q. Do you recall having a conversation with Miss Creem about how the accident took place?

A. Could I look at the report?

Q. Sure.

A. Vaguely I remember her telling me about the brakes not working properly.

Q. Do you know if that came from Miss Creem or some other source?

A. I believe Miss Creem.

BARNHART

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2 A. We can print out and exchange information
3 for the drivers, but you have to bring it
4 back to the station to get it approved by
5 the supervisor.

6 Q. All the information that is on B was
7 generated at the scene?

8 A. Yes.

9 Q. The second page, diagram on the exhibit,
10 Exhibit B, that's put down to your
11 description of the actual accident, not
12 where you found the vehicles when you
13 arrived; correct?

14 A. Yes. That would be the description that
15 they gave me of what happened, I put it on
16 the diagram.

17 Q. You indicated that there are boxes to
18 indicate causative factors on the report,
19 Exhibit B; correct, but you just don't know
20 which -- you don't have the code for the
21 causing factors with you today?

22 A. Correct.

23 Q. Do you recall which boxes on the report are
24 causative factors and for which vehicle?

25 A. It would be up on the right hand side up

BARNHART

33

here somewhere.

Q. That would be the one 19, 20, 21 and 22?

A. Yes. Somewhere in there is the -- I'm not positive exactly which one it is.

Q. So whatever 42 is, you put down 42, that would correspond to a causative factor, on box number 19 on the right-hand side?

A. If 19 is that corresponding box. It's one of these here. I'm not positive which one.

MR. KONDULIS:

I have no further questions.

MR. O'SHAUGHNESSY:

I have one follow-up.

CONTINUED EXAMINATION BY MR. O'SHAUGHNESSY:

Q. As part and parcel of your investigation of an accident scene, would you also look to examine whether a vehicle had a proper inspection?

A. Yes.

Q. Would you also look to see if a car had a proper registration?

A. Yes.

Q. And a valid license?

A. Yes.

Local Codes
06-1166
6SRPD4000047

POLICE ACCIDENT REPORT MV-104A (3/04)

☒ AMENDED REPORT

1 Accident Date		Day of Week		Military Time		No. of Vehicles		No. Injured		No. Killed		Not Investigated at Scene <input type="checkbox"/>		Left Scene <input type="checkbox"/>		Police Photos <input type="checkbox"/>	
Month 9 Day 18 Year 2006		Monday		15:00		2		3		0		Accident Reconstructed <input type="checkbox"/>		<input type="checkbox"/>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
<div style="display: flex; justify-content: space-between;"> <div> <p>VEHICLE 1</p> <p>VEHICLE 1 - Driver License ID Number 797784887</p> <p>Driver Name - exactly as printed on license CREEM, FRANCES M</p> <p>Address (Include Number and Street) 59 CHURCH ST</p> <p>City or Town NEW PALTZ State NY Zip Code 12561</p> <p>Date of Birth Month 6 Day 14 Year 1930 Sex F Unlicensed <input type="checkbox"/> No. of Occupants 01 Public Property Damaged <input type="checkbox"/></p> <p>Name - exactly as printed on registration CREEM, FRANCES M Sex F Date of Birth Month 6 Day 14 Year 1930</p> <p>Address (Include Number and Street) 59 CHURCH ST</p> <p>City or Town NEW PALTZ State NY Zip Code 12561</p> <p>Plate Number BYM9383 State of Reg NY Vehicle Year & Make 1991 BUIC Vehicle Type 4DSD Ins. Code 328</p> <p>Ticket/Arrest Number(s)</p> <p>Violation Section(s)</p> </div> <div> <p>VEHICLE 2 <input checked="" type="checkbox"/> BICYCLIST <input type="checkbox"/> PEDESTRIAN <input type="checkbox"/> OTHER PEDESTRIAN</p> <p>VEHICLE 2 - Driver License ID Number 300433039</p> <p>Driver Name - exactly as printed on license OLSON, BETTY M</p> <p>Address (Include Number and Street) 254 HOLLOW RD</p> <p>City or Town STAATSBURG State NY Zip Code 12580</p> <p>Date of Birth Month 6 Day 26 Year 1943 Sex F Unlicensed <input type="checkbox"/> No. of Occupants 02 Public Property Damaged <input type="checkbox"/></p> <p>Name - exactly as printed on registration OLSON, BETTY M Sex F Date of Birth Month 6 Day 26 Year 1943</p> <p>Address (Include Number and Street) 254 HOLLOW RD</p> <p>City or Town STAATSBURG State NY Zip Code 12580</p> <p>Plate Number NYCOM48 State of Reg NY Vehicle Year & Make 2003 SUZU Vehicle Type 4DSD Ins. Code 639</p> <p>Ticket/Arrest Number(s)</p> <p>Violation Section(s)</p> </div> </div>																	
<div style="display: flex; justify-content: space-between;"> <div> <p>6 Check if involved vehicle is:</p> <p><input type="checkbox"/> more than 95 inches wide;</p> <p><input type="checkbox"/> more than 34 feet long;</p> <p><input type="checkbox"/> operated with an overweight permit;</p> <p><input type="checkbox"/> operated with an overdimension permit;</p> <p>VEHICLE 1 DAMAGE CODES</p> <p>Box 1 - Point of Impact 1 2</p> <p>Box 2 - Most Damage 3 4</p> <p>Enter up to three more damage codes 1 3 5</p> <p>Vehicle Bv. BILLS TOWING</p> <p>Towed To. BILLS TOWING</p> <p>VEHICLE DAMAGE CODING:</p> <p>1-13 SEE DIAGRAM ON RIGHT.</p> <p>14. UNDERCARRIAGE 17. DEMOLISHED</p> <p>15. TRAILER 18. NO DAMAGE</p> <p>16. OVERTURNED 19. OTHER</p> </div> <div> <p>VEHICLE 2 DAMAGE CODES</p> <p>Box 1 - Point of Impact 8 1</p> <p>Box 2 - Most Damage 2 8</p> <p>Enter up to three more damage codes 7 9 5</p> <p>Vehicle Bv. BILLS TOWING</p> <p>Towed To. BILLS TOWING</p> </div> <div> <p>Circle the diagram below that describes the accident, or draw your own diagram in space #9. Number the vehicles.</p> <p>Rear End Left Turn Right Angle Right Turn Head On</p> <p>Sideswipe (same direction) Left Turn Right Turn Sideswipe (opposite direction)</p> <p>ACCIDENT DIAGRAM</p> <p>See the last page for the accident diagram.</p> <p>Cost of repairs to any one vehicle will be more than \$1000.</p> <p><input type="checkbox"/> Unknown/Unable to determine <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> </div> </div>																	
<p>Reference Marker</p> <p>Coordinates (if available)</p> <p>Latitude/Northing: 3 2</p> <p>Longitude/Easting: 8 6 0 2</p> <p>1 1 8 7</p> <p>Place Where Accident Occurred:</p> <p>County ULSTER <input type="checkbox"/> City <input type="checkbox"/> Village <input checked="" type="checkbox"/> Town of ROSENDALE</p> <p>Road on which accident occurred ROUTE 32 (Route Number or Street Name)</p> <p>at 1) intersecting street <input type="checkbox"/> N <input checked="" type="checkbox"/> S (Route Number or Street Name)</p> <p>or 2) 100 <input type="checkbox"/> E <input checked="" type="checkbox"/> W of PARKCREST DR (Milepost, Nearest intersecting Route Number or Street Name)</p> <p>feet miles</p> <p>Accident Description/Officer's notes</p> <p>V1 WAS TRAVELING N/B ON ROUTE 32 BEHIND V2. WHEN V1 WAS COMING DOWN THE HILL, V2 WAS STOPPED DUE TO CONSTRUCTION AHEAD. V1 WENT TO APPLY THE BRAKES AND THE BRAKES FAILED. V1 STRUCK V2. REPORTING OFFICER DID FIND A PUDDLE OF BRAKE FLUID ON THE ROADWAY UNDER V1.</p>																	

ALL INVOLVED

	8	9	10	11	12	13	14	15	16	17 BY	TO 18	Names of all involved	Date of Death Only
A	1	1	4	1	76	F	X	X	6	11372ET	5503	CREEM, FRANCES M	
B	2	1	4	1	63	F	04	14	6	11363ET	5501	OLSON, BETTY M	
C	2	3	4	1	56	F	04	14	6	11363ET	5501	WEISS, JUDITH H	
D													
E													
F													
<p>Officer's Rank and Signature PO <i>R. H. Barnhart</i></p> <p>Print Name in Full Kristofer Barnhart</p> <p>Badge/ID No. 215</p> <p>NCIC No. 05590</p> <p>Precinct/Post Troop/Zone F3</p> <p>Station/Beat Sector</p> <p>Reviewing Officer Buboltz, Andrew J</p> <p>Date/Time Reviewed 9/25/2006 10:01</p>													

N

Local Codes
06-1166
6SRPD4000047

POLICE ACCIDENT REPORT MV-104A (3/04)

☐ **AMENDED REPORT**

Accident Date			Day of Week	Military Time	No. of Vehicles	No. Injured	No. Killed	Not Investigated at Scene <input type="checkbox"/>	Left Scene <input type="checkbox"/>	Police Photos <input type="checkbox"/> Yes <input type="checkbox"/> No
Month	Day	Year						Accident Reconstructed <input type="checkbox"/>		
9	18	2006	Monday	15:00	2	3	0			



